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To: Microsoft ATR
Date: 11/20/01 5:25pm
Subject: Microsoft Settlement - a very bad deal for developers and consumers.

I don't think the settlement accomplishes anything since Microsoft can basically continue doing what it was doing while playing games and doing good PR things (like giving free things to schools - you were going to investigate Apple for antitrust for doing the same thing!).

If Usama Bin Laden is captured, but it takes time and the Appeals court says he is guilty but drawing and quartering (break-up) is too severe, are you going to give him probation if he promises not to engage in terrorism again and give him back all the frozen accounts?

First, there are injured parties, notably Netscape and Sun. Where is the millions or billions they have to pay or give in services like including their browser and Java technology in their windows releases? Or lock out Internet Explorer (Microsoft is free to contribute to Mozilla which is Open Source if they think features should be modified or added) and C#? Nowhere. Microsoft keeps its ill-gotten gains in both money and market share. Or gets to spend the money on what they were going to spend it on anyway.

Second, the courts found Microsoft Guilty. Including the appeals court. Guilty people normally have to pay a penalty. Even if the current administration considers the antitrust laws an ass, the laws are still there and need enforcement. I cannot choose which law I obey, but I don't have billions to argue the point. I find it strange that people voted for the current administration only to have what appears to be checkbook justice going on. If you are going to have a penalty-free decree written by Microsoft, you should simply move to dismiss instead of pretending anything will be done to limit Microsoft's dominance.

Third, the reason they were sued in the late '90s is BECAUSE THEY DID THE EXACT SAME THING WITH WINDOWS 95. They promised not to bundle so they integrated instead and spent years arguing that integration wasn't bundling and that they weren't doing anything wrong while they were doing things to lock out competitors and leverage one monopoly into others.

They promise not to hold back info, but they can just move to patents or add some digital protection thing in every API so everything is effectively exempt from the settlement. And you can spend five more years in court the next time they TOTALLY AND COMPLETELY VIOLATE THE SPIRIT OF THE AGREEMENT (and will the DoJ cave in then?). The devil is in the details and they snookered you with windows 95 in the details and they just did so again - if they weren't worried they wouldn't argue over every jot and tittle.

A short and simple (and painful - given their guilt and assuming the laws are taken seriously -) agreement would have been better. If Microsoft can't live with restrictions on virus, piracy, and DRM controls, then they should go to the marketplace and let third parties develop the technology. If they don't like OEM restrictions then they should simply sell on a non-discriminatory basis - same price and contract for all comers.

Finally, the EULA in every Windows installation says if you don't agree, you can take back THE SOFTWARE where you bought it for a full refund. I challenge the DoJ to try this. Buy a Laptop (for Linux or something else) and try to return just the Windows software. Or even buy an upgrade and try to return it. Microsoft won't even live by the terms of their own written legal agreements. If there was a provision that anyone (user or business) buying a PC could get a refund on Windows (from Microsoft) if they didn't want it, that would by itself fix most of the problems with OEMs.